



Middle Temple Policy on Waiver of Qualifying Sessions for Transferring Qualified Lawyers

Introduction

RQ6.3 of the Qualification Rules set by the Bar Standards Board provides that each student member must attend 10 Qualifying Sessions (QS). There are 5 QS themes, and it is the student's responsibility to demonstrate that they have undertaken sufficient training in each - a minimum of one session for each heading:

- Ethics, Standards and Values.
- Advocacy Skills.
- Legal Knowledge, Justice, and the Rule of Law.
- Equality, Diversity and Inclusion.
- Preparation for Pupillage, Career Development and Wellbeing.

As the standard BSB letter to each transferring lawyer – from other jurisdictions or other professions – makes clear, the BSB's waiver of some/all of the academic, vocational and pupillage requirements is **not** a waiver of the obligation to complete QS.

QS have two underlying intentions:

- to help students acquire the knowledge areas, skills or attributes set out in the BSB's Professional Statement and to also cover more general topics related to the wider workings of the Bar, the administration of justice and the public interest it serves.
- to induct new members into the professional community of the Bar of England and Wales, help them build a relationship with the Inn and meet other practitioners.

The Inn has the power to waive or modify the QS requirement in exceptional circumstances.

The view taken by Middle Temple is that the power to waive or modify permits us to consider both broad types of request regularly received, and to consider them separately or together.

They are:

- a request for the requirement for particular types and/or numbers of QS to be waived or modified.
- a request to be called before however many QS as are required, are completed.

At Middle Temple, the discretion to waive all or part of the QS requirement is exercised by the Chair of the Education and Training Committee or their nominee.

The purpose of this document first is to set out the basis on which applications for waiver are considered, and secondly to offer some guidance as to what evidence is regarded as properly supporting such applications.

Basis of Waiver and Modification

The starting point is that QS are an *obligation*. Exceptional circumstances which would relieve you of that obligation must be established by the applicant. It is not part of the Inn's function to engage in dialogue with the applicant in order to ensure they get what they want, and the staff will not do so.

The baseline assumption is that the QS deliver particular skills and knowledge, which are critical to practice at the Bar of England and Wales. It follows that – however extensive the experience in another profession or jurisdiction – to ground a claim for exceptional circumstances, the applicant must demonstrate they already possess those precise skills and knowledge.

That demands knowledge of what the skills are. Advocacy Skills and Legal Knowledge are likely to be common to legal professions and, perhaps, to other jurisdictions (depending on the area of law in which the applicant practises), but barristers are advocacy specialists and the standard the applicant can demonstrate will be viewed in that light.

Ethics are not necessarily common across professions or jurisdictions – the BSB Handbook is a very particular and precise document. EDI largely depends upon the jurisdiction, particularly as it relates to race and sexual preference. Preparation for Pupillage will plainly be less important if the pupillage requirement has been waived by the BSB.

Middle Temple understands “exceptional circumstances” to include demonstrating such a degree of competence in the particular area as to render it unfair or wasteful to require the applicant to undertake the training on offer.

The Inn is keen to enable its members to be Called and undertake pupillage/practise in a timely manner. If it can properly do so, it will permit applicants to be Called and complete QS thereafter.

But, the onus is on the applicant to demonstrate their application is made in good time, and is thus exceptional.

Guidance

What follows is not policy, but rather an attempt to offer some helpful guidance as to whether and how to make an application. Please remember that your application is written advocacy. It should therefore be concise, evidenced and persuasive.

If you cannot demonstrate that you possess the degree of competence outlined above, you are unlikely to be exempted from any requirement.

Applying for any exemption in respect of which you cannot demonstrate the required degree of competence is unlikely to assist, and may persuade the decisor that you fall short of requisite competence more generally.

Assuming that previous experience or achievement in one area, however distinguished, in some way aggregates so as to establish the requisite standard in all areas is an error. Failing to understand that barristers are *general* advocates will undermine any application. Barristers have rights of audience in every tribunal in the land. Even when the applicant’s expectation is that they will only practise in one tribunal, the test is general advocacy competence.

Not beginning QS because the decision to be Called is dependent on an actual offer of pupillage is unlikely to persuade the decisor that the individual can rely on exceptional circumstances.

Deciding not to be Called unless there is a pupillage offer, getting such an offer, and then saying that QS cannot even be begun (as opposed to completed), before call, is unlikely to amount to exceptional circumstances.